

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

NUUR SAID ALI,	)	
	)	
Plaintiff,	)	
	)	No: 3:07-0796
v.	)	Judge Trauger/Bryant
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

**TO: The Honorable Aleta A. Trauger**

**REPORT AND RECOMMENDATION**

This case was referred to the undersigned Magistrate Judge for report and recommendation on dispositive motions (Docket Entry No. 3).

Pending before the Court is defendant's Motion to Dismiss Pursuant to Federal Rule 12(h)(3). (Docket Entry No. 9). Plaintiff has not responded to this motion. For the reasons stated below, the undersigned **RECOMMENDS** that defendant's Motion to Dismiss be **GRANTED**, and that the complaint be **DISMISSED** as moot.

**I. Statement of the Case**

Plaintiff, proceeding pro se, filed his complaint pursuant to 8 C.F.R. § 310.5 seeking judicial review after the Bureau of Citizenship and Immigration Services failed to make a determination on plaintiff's application for naturalization after more than 120 days following plaintiff's naturalization exam. Plaintiff seeks an order requiring the Government to naturalize him within a specified time (Docket Entry No. 1).

## **II. Analysis**

The Government has filed its motion to dismiss the complaint under Rule 12(h)(3), Federal Rules of Civil Procedure, on the ground that plaintiff's application for naturalization now has been approved and his naturalization ceremony has been scheduled. From the record (Docket Entry No. 9-1), it appears that plaintiff's application for naturalization was approved on October 6, 2007. Moreover, the Clerk's Office has advised that plaintiff was naturalized as a United States citizen on November 16, 2007.

Because the plaintiff now has obtained the relief that he seeks in his complaint, there remains no controversy between these parties, the complaint has become moot, and this Court lacks jurisdiction. See Ford v. Wilder, 469 F.3d 500, 504 (6<sup>th</sup> Cir. 2006); Ailor v. City of Maynardville, 368 F.3d 587, 596 (6<sup>th</sup> Cir. 2004); Lusk v. McDonough, 386 F.Supp. 183, 185-86 (E.D. Tenn 1974). Accordingly, the complaint should be dismissed.

## **III. RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that defendant's Motion to Dismiss be **GRANTED** and that the complaint be **DISMISSED** with prejudice as moot.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said

objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 19<sup>th</sup> day of November 2007.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge